

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) MB Docket No. 14-82 |
| |) |
| PATRICK SULLIVAN |) FRN 0003749041, 0006119796, |
| (Assignor) |) 0006149843, 0017196064 |
| |) |
| and |) Facility ID No. 146162 |
| |) |
| LAKE BROADCASTING, INC. |) File No BALFT-20120523ABY |
| (Assignee) |) |
| |) |
| Application for Consent to Assignment of |) |
| License of FM Translator Station W238CE, |) |
| Montgomery, Alabama |) |

To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

LAKE BROADCASTING, INC.'S DECLARATION
IN RESPONSE TO ORDER, FCC 16M-37 AND
COMMENTS THEREON

Lake Broadcasting, Inc. ("Lake"), by its attorney, pursuant to Section 1.294 of the Commission's Rules, hereby supplies the Declaration requested by the Presiding Judge in *Order*, FCC 16M-37, released today in this proceeding, and comments thereon. In support whereof, the following is shown.

1. By *Order*, FCC 16M-37, p.2, released December 22, 2016, the Presiding Judge postponed the hearing date in this proceeding *sine die*, and, inter alia, ordered Lake to provide an affidavit or declaration from Mr. Michael Rice concerning allegations that he or someone else at his direction, on his behalf, or to his knowledge contacted Ms. Tammy Gremminger or the Missouri Department of

Corrections (“Department”) in an effort to threaten her continued involvement in this proceeding. The requested Declaration by Mr. Rice is attached and is being filed on the same day that it was requested. It fully demonstrates that neither Mr. Rice nor anyone else at his direction, on his behalf, or to his knowledge, has made any effort to intimidate Ms. Gremminger in this case.

2. While the *Order* concludes, at 2, that “There is no reason to believe that the [Enforcement] Bureau provided anything less than the information it possessed at the time of filing its Second Motion,” Lake respectfully disagrees. The Bureau’s Second Motion stated that the Department was carrying out an “investigation” concerning the alleged intimidation of Ms. Gremminger, but the Bureau’s December 19, 2016 Opposition to Lake’s Motion to Strike contains a December 15, 2016 letter from Keith Morgan, Acting Deputy Chief of the Bureau, which says nothing about an “investigation” of the alleged intimidation of Ms. Gremminger and, instead, asks only for “confirmation that your legal department is in fact reviewing Ms. Gremminger’s continued participation in the FCC proceeding”.

3. Thus, apart from asking for a Declaration by Mr. Rice, no effort is apparently being made by the Bureau or the Department at the present time to investigate the alleged intimidation. Rather, the Department is reviewing whether Ms. Gremminger’s participation in our FCC proceeding has been *ultra vires*, and whether she should be prohibited from continuing to participate. Therefore, Ms. Gremminger’s non-participation at this time seems to be an HR or disciplinary

matter at the Department, and how it could be portrayed as the result of witness tampering or intimidation is anyone's guess.

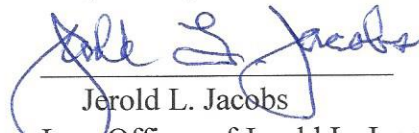
4. Indeed, Mr. Morgan's letter (at 2) asks the Department to tell the Bureau "the reasons why any such review is being conducted and whether – and when – Ms. Gremminger will be able to continue working with the Enforcement Bureau" (emphasis added). Surely, before the Bureau leveled the harsh accusation of witness intimidation against Mr. Rice in its Second Motion, it had an obligation as an Officer of this Court to provide the tribunal with more information about the alleged intimidation, such as the identity of the alleged intimidator; when the alleged intimidation occurred; when Ms. Gremminger allegedly contacted legal counsel at the Department and was instructed to have no further contact with the Bureau until the Department completes its investigation; who told her to cease contact with the Bureau; who is conducting the investigation at the Department; when did the investigation begin; and when is it expected to conclude. The Bureau ought to know at least some of these facts, if they exist, and it is unconscionable that it has failed to provide them to the Presiding Judge or to Lake. Indeed, the only "facts" currently available in Mr. Morgan's letter suggest that this alleged intimidation inquiry is a charade, in which Ms. Gremminger's HR malfeasance is being "spun" by the Bureau as witness intimidation.

5. If the Bureau cannot populate the record with real evidence in this matter, Lake urges the Judge to disqualify or dismiss Ms. Gremminger from this proceeding forthwith as simply unavailable and to go on with the hearing without

her.

WHEREFORE, in view of the foregoing, Lake Broadcasting, Inc. respectfully asks that the Presiding Judge to accept Mr. Rice's Declaration and to order the Enforcement Bureau to show cause why Ms. Tammy Gremminger should not be disqualified or dismissed from this proceeding forthwith as simply unavailable and why the case should not go to hearing without her participation.

Respectfully submitted,



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Counsel for Lake Broadcasting, Inc.

Dated: December 22, 2016

DECLARATION

I, **Michael S. Rice**, hereby declare, under penalty of perjury:

Neither I nor anyone else at my direction, on my behalf, or to my knowledge has contacted Ms. Tammy Gremminger or the Missouri Department of Corrections at any time in an effort to threaten her continued involvement in the pending FCC hearing proceeding, or to threaten to pursue legal action against Ms. Gremminger if she continues to participate in the FCC hearing.

This Declaration is provided pursuant to the Presiding Judge's *Order*, FCC 16M-37 released December 22, 2016, at page 2.

Executed on December 22, 2016



Michael S. Rice

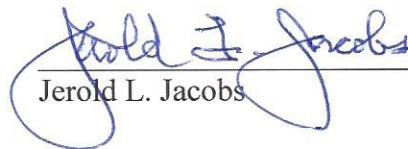
CERTIFICATE OF SERVICE

I, Jerold L. Jacobs, hereby certify that on this 22nd day of December, 2016, I filed the foregoing "LAKE BROADCASTING, INC.'S DECLARATION IN RESPONSE TO ORDER, FCC 16M-37 AND COMMENTS THEREON" in ECFS and caused a copy to be sent via First Class United States Mail and via e-mail to the following:

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